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Introduced and read first time: February 4, 2004  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Program - Installment Purchase**  
3 **Agreements and Termination of Easements**

4 FOR the purpose of authorizing the Maryland Agricultural Land Preservation  
5 Foundation to purchase agricultural easements through installment purchase  
6 agreements; prohibiting the use of the proceeds of the sale of taxable, general  
7 obligation bonds to purchase easements using installment purchase  
8 agreements; establishing the maximum term of an installment purchase  
9 agreement; requiring that the Foundation make certain annual payments;  
10 requiring the Foundation to pay a certain amount at the end of the term;  
11 requiring the agreement to contain certain information; providing that an  
12 easement purchased under an installment purchase agreement cannot be  
13 terminated; requiring the Foundation to prepare and submit a certain plan to  
14 the Governor and the General Assembly; requiring the Foundation to adopt  
15 certain regulations; and generally relating to the Maryland Agricultural Land  
16 Preservation Program, installment purchase agreements, and termination of  
17 easements.

18 BY repealing and reenacting, with amendments,  
19 Article - Agriculture  
20 Section 2-505, 2-509(a), 2-510(k), and 2-514  
21 Annotated Code of Maryland  
22 (1999 Replacement Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Agriculture**

2 2-505.

3 (a) The Maryland Agricultural Land Preservation Fund is created and  
4 continued for the purposes specified in this subtitle.

5 (b) The Maryland Agricultural Land Preservation Fund shall comprise:

6 (1) Any money made available to the Fund by general or special fund  
7 appropriations; and8 (2) Any money made available to the Fund by grants or transfers from  
9 governmental or private sources.10 (c) The Comptroller of the Treasury may not disburse any money from the  
11 Maryland Agricultural Land Preservation Fund other than:12 (1) For costs associated with the staffing and administration of the  
13 Maryland Agricultural Land Preservation Foundation;14 (2) For reasonable expenses incurred by the members of the board of  
15 trustees of the Maryland Agricultural Land Preservation Foundation in the  
16 performance of official duties; and17 (3) For consideration in the purchase of agricultural land preservation  
18 easements beginning with fiscal year 1979 and each fiscal year thereafter.19 (d) Any money remaining in the Fund at the end of a fiscal year may not  
20 revert to the general funds of the State, but shall remain in the Maryland  
21 Agricultural Land Preservation Fund to be used for the purposes specified in this  
22 subtitle. It is the intent of the General Assembly that, to the extent feasible, the  
23 Foundation utilize the full amount of money available for the purchase of easements  
24 in any fiscal year so as to minimize the amount of money remaining in the Fund at  
25 the end of any fiscal year.26 (e) If a portion of a local subdivision's allocation of Program Open Space funds  
27 is transferred to the Maryland Agricultural Land Preservation Fund pursuant to the  
28 provisions of § 5-903 of the Natural Resources Article, the Foundation may utilize  
29 such transferred funds only for purchases of easements on land located within the  
30 boundaries of the subdivision which requested the transfer of funds. Such transferred  
31 open space funds shall be available in addition to any funds which would otherwise be  
32 allotted under this subtitle for purchases of easements in the county which requested  
33 the transfer of funds; and at the discretion of the local governing body, such  
34 transferred open space funds may be used for general purchases, or applied as the  
35 local contribution in matching purchases as required in §§ 2-508(a)(3) and  
36 2-512(b)(1) of this subtitle.

1 (F) MONEY IN THE FUND FROM THE SALE OF GENERAL OBLIGATION BONDS  
2 MAY NOT BE USED TO PURCHASE EASEMENTS UNDER AN INSTALLMENT PURCHASE  
3 AGREEMENT, AS PROVIDED IN § 2-510(K)(2) OF THIS SUBTITLE.

4 [(f)] (G) The estimated budget of the Foundation for the next fiscal year shall  
5 be included with the budget of the Department.

6 [(g)] (H) The Fund shall be audited annually by the Legislative Auditor in the  
7 manner prescribed by law.

8 2-509.

9 (a) The Foundation shall adopt regulations and procedures for:

10 (1) Establishment and monitoring of agricultural districts;

11 (2) Evaluation of land to be included within agricultural districts; and

12 (3) Purchase of easements, INCLUDING THE PURCHASE OF EASEMENTS  
13 UNDER AN INSTALLMENT PURCHASE AGREEMENT.

14 2-510.

15 (k) At the time of settlement of the purchase of an easement, the landowner  
16 and the Foundation may agree upon and establish a schedule of payment such that  
17 the landowner may receive consideration for the easement in a lump sum, [or] in  
18 installments over a period of up to 10 years from the date of settlement, OR AS  
19 PROVIDED IN AN INSTALLMENT PURCHASE AGREEMENT UNDER PARAGRAPH (2) OF  
20 THIS SUBSECTION. At the time of settlement, the Foundation shall notify in writing  
21 each landowner who sells an agricultural easement to the Foundation of the schedule  
22 of anticipated ranges of interest rates to be paid on any unpaid balance after the date  
23 of settlement.

24 (1) (I) If a schedule of installments is agreed upon, the Comptroller  
25 shall retain in the Maryland Agricultural Land Preservation Fund an amount of  
26 money sufficient to pay the landowner according to the schedule.

27 [(2)] (II) The landowner shall receive interest on any unpaid balance  
28 remaining after the date of settlement. The State Treasurer shall invest the unpaid  
29 balance remaining after the date of settlement in a certificate or certificates of  
30 deposit at the maximum interest rate offered by a bank servicing the State or at such  
31 other institutions which pay the maximum interest rates payable on time and savings  
32 deposits at federally insured commercial banks selected by the Treasurer, to mature  
33 in accordance with an agreed upon schedule of installments as provided in this  
34 section. Any interest earned on the invested unpaid balance shall be paid with the  
35 installment when due, less 1/4 of 1 percent.

36 (2) (I) THE FOUNDATION MAY PAY THE LANDOWNER ACCORDING TO  
37 A SCHEDULE, UP TO A MAXIMUM TERM OF 15 YEARS, ESTABLISHED IN AN  
38 INSTALLMENT PURCHASE AGREEMENT.

1 (II) THE INSTALLMENT PURCHASE AGREEMENT SHALL:

2 1. REQUIRE THAT THE FOUNDATION MAKE ANNUAL EQUAL  
3 PAYMENTS TO THE LANDOWNER OF INTEREST ON THE OUTSTANDING BALANCE OF  
4 THE PURCHASE PRICE;

5 2. REQUIRE THAT THE FOUNDATION PAY THE LANDOWNER  
6 THE REMAINDER OF THE PURCHASE PRICE AT THE END OF THE TERM;

7 3. STATE THE TOTAL AMOUNT OF MONEY THE FOUNDATION  
8 WILL PAY THE LANDOWNER, THE INTEREST RATE, AND THE TERMS OF THE  
9 AGREEMENT; AND

10 4. REQUIRE THAT THE EASEMENT BE RECORDED WITHIN 30  
11 DAYS OF SETTLEMENT.

12 2-514.

13 (a) It is the intent of the General Assembly that the easement purchased  
14 under this subtitle be held by the Foundation for as long as profitable farming is  
15 feasible on the land under easement, and an easement may be terminated only in the  
16 manner and at the time specified in this section.

17 (b) [At] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, any  
18 time after 25 years from the date of purchase of an easement, the landowner may  
19 request that the easement be reviewed for possible termination of the easement.

20 (c) Upon a request for review of an easement for termination, an inquiry shall  
21 be conducted by the Foundation to determine the feasibility of profitable farming on  
22 the subject land. The inquiry shall be concluded and a decision reached by the  
23 Foundation within 180 days after the request for termination, and shall include:

24 (1) On-site inspection of the subject land; and

25 (2) A public hearing conducted by the Foundation board within the  
26 county containing the subject land after adequate public notice.

27 (d) An easement may be terminated only with the approval of the governing  
28 body of the county containing the subject land. In deciding whether to approve the  
29 request for termination, the county governing body shall receive the recommendation  
30 of the county agricultural preservation advisory board established under § 2-504.1 of  
31 this subtitle. The decision of the county governing body shall be made after the public  
32 hearing required in paragraph (c). The county governing body shall notify the  
33 Foundation of its decision within 30 days after the conclusion of the public hearing  
34 required in paragraph (c).

35 (e) Upon the affirmative vote of a majority of the Foundation members  
36 at-large, and upon the approval of the Secretary and the State Treasurer, the request  
37 for termination shall be approved, and the landowner shall be notified.

1 (f) (1) If the request for termination is approved, an appraisal of the subject  
2 land shall be ordered by the Foundation at the expense of the landowner requesting  
3 termination of the easement.

4 (2) (i) No more than 180 days following the appraisal required under  
5 paragraph (1) of this subsection, the landowner may repurchase the easement by  
6 paying to the Foundation the difference between the fair market value and the  
7 agricultural value of the subject land, as determined by the appraisal.

8 (ii) For purposes of this paragraph, the agricultural value is the  
9 price as of the valuation date which a vendor, willing but not obligated to sell, would  
10 accept, and which a purchaser, willing but not obligated to buy, would pay for a farm  
11 unit with land comparable in quality and composition to the property being  
12 appraised, but located in the nearest location where profitable farming is feasible.

13 (iii) 1. In the case of the termination of an easement that was  
14 originally purchased under a matching allotted purchase, the Foundation shall  
15 distribute to the contributing county a portion of the repurchase payment received  
16 under subparagraph (i) of this paragraph that is equal to the percentage of the  
17 original easement purchase price contributed by the county.

18 2. A. From the funds distributed to a county under this  
19 subparagraph, the county shall deposit in the county's special account for its  
20 agricultural land preservation program an amount that is at least equal to the  
21 percentage of the original easement purchase price that was paid out of the special  
22 account.

23 B. If any of the funds deposited in the county's special  
24 account have not been expended or committed within 3 years from the date of deposit  
25 into the special account, the county collector shall remit those funds to the  
26 Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as  
27 provided in § 13-306(c) of the Tax - Property Article.

28 3. The county shall deposit the balance of the funds  
29 distributed to it under this subparagraph in the county's general fund.

30 (g) If the request for termination is denied, or if the landowner fails to  
31 repurchase the easement within 180 days of the appraisal, the landowner may not  
32 again request termination of the easement until five years after his last request for  
33 termination.

34 (H) A LANDOWNER MAY NOT TERMINATE AN EASEMENT PURCHASED USING  
35 AN INSTALLMENT PURCHASE AGREEMENT, AS PROVIDED IN § 2-510(K) OF THIS  
36 SUBTITLE.

37 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland  
38 Agricultural Land Preservation Foundation, in consultation with the Treasurer, shall  
39 prepare a plan to purchase easements using installment purchase agreements with a  
40 term of 25 years. The plan shall include identification of a revenue source to be  
41 dedicated to the purchase of easements using installment purchase agreements. The

1 Foundation shall present its plan to the Governor and the General Assembly on or  
2 before November 1, 2004, in accordance with § 2-1246 of the State Government  
3 Article.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2004.